

**AMENDMENT TO
INTERCONNECTION AGREEMENT
BY AND BETWEEN
WISCONSIN BELL, INC. d/b/a SBC WISCONSIN
AND
POWERCOM CORPORATION**

Wisconsin Bell, Inc.¹ d/b/a SBC Wisconsin, as the Incumbent Local Exchange Carrier in Wisconsin, (hereafter, "ILEC") and Powercom Corporation as [a Competitive Local Exchange Carrier ("CLEC"), an Independent Local Exchange Carrier ("Independent") or Commercial Mobile Radio Service ("CMRS") provider in Wisconsin,] (referred to as "CARRIER"), in order to amend, modify and supersede any affected provisions of their Interconnection Agreement with ILEC in Wisconsin ("Interconnection Agreement"), hereby execute this Reciprocal Compensation Amendment for ISP-Bound Traffic and Federal Telecommunications Act Section 251(b)(5) Traffic (Adopting FCC's Interim ISP Terminating Compensation Plan)("Amendment"). CLEC and Independent are also referred to as a "LEC."

1.0 Scope of Amendment

- 1.1 ILEC made an offer to all telecommunications carriers in the state of Wisconsin (the "Offer") to exchange traffic on and after June 1, 2003 under Section 251(b)(5) of the Act pursuant to the terms and conditions of the FCC's interim ISP terminating compensation plan of the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001) ("FCC ISP Compensation Order") which was remanded but not vacated in *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. 2002).
- 1.2 The purpose of this Amendment is to include in CARRIER's Interconnection Agreement the rates, terms and conditions of the FCC's interim ISP terminating compensation plan for the exchange of ISP-bound traffic lawfully compensable under the FCC ISP Compensation Order ("ISP-bound Traffic") and traffic lawfully compensable under Section 251(b)(5) ("Section 251(b)(5) Traffic").
- 1.3 This Amendment is intended to supercede any and all contract sections, appendices, attachments, rate schedules, or other portions of the underlying Interconnection Agreement that set forth rates, terms and conditions for the terminating compensation for ISP-bound Traffic and Section 251(b)(5) Traffic exchanged between ILEC and CARRIER. Any inconsistencies between the provisions of this Amendment and provisions of the underlying Interconnection Agreement shall be governed by the provisions of this Amendment.

2.0 Rates, Terms and Conditions of FCC's Interim Terminating Compensation Plan for ISP-Bound Traffic and Section 251(b)(5) Traffic

- 2.1 ILEC and CARRIER hereby agree that the following rates, terms and conditions shall apply to all ISP-bound Traffic and all Section 251(b)(5) Traffic exchanged between the Parties on and after the date this Amendment becomes effective pursuant to Section 4.1 of this Amendment.
- 2.2 Reciprocal Compensation Rate Schedule for ISP-bound Traffic and Section 251(b)(5) Traffic:
 - 2.2.1 The rates, terms, conditions in this section apply only to the termination of ISP-bound Traffic and Section 251(b)(5) Traffic, and ISP-bound Traffic is subject to the growth caps in Section 2.3, the new market restrictions in Section 2.4 and rebuttable presumption in Section 2.6. Notwithstanding anything contrary in this Amendment, the growth caps in Section 2.3, the new market restrictions in Section 2.4 and the rebuttable presumption in Section 2.6 only apply to LECs and ILEC.

¹ Wisconsin Bell, Inc. ("Wisconsin Bell"), a Wisconsin corporation, is a wholly owned subsidiary of Ameritech Corporation, which owns the former Bell operating companies in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin. Wisconsin Bell offers telecommunications services and operates under the names "SBC Wisconsin" and "SBC Ameritech Wisconsin", pursuant to assumed name filings with the State of Wisconsin. Ameritech Corporation is a wholly owned subsidiary of SBC Communications, Inc.

- 2.2.2 The Parties agree to compensate each other for such ISP-bound Traffic and Section 251(b)(5) Traffic on a minute of use basis, according to the following rate schedule:

June 1, 2003 – June 14, 2003:	.0010 per minute
June 15, 2003 and thereafter:	.0007 per minute

2.3 ISP-bound Traffic Minutes Growth Cap

- 2.3.1 On a calendar year basis, as set forth below, LEC and ILEC agree to cap overall compensable Wisconsin ISP-bound Traffic minutes of use in the future based upon the 1st Quarter 2001 ISP-bound Traffic minutes for which LEC was entitled to compensation under its Wisconsin Interconnection Agreement(s) in existence for the 1st Quarter of 2001, on the following schedule.

Calendar Year 2001	1st Quarter 2001 compensable ISP-bound minutes, times 4, times 1.10
Calendar Year 2002	Year 2001 compensable ISP-bound minutes, times 1.10
Calendar Year 2003	Year 2002 compensable ISP-bound minutes
Calendar Year 2004	Year 2002 compensable ISP-bound minutes
Calendar Year 2005 and thereafter	Year 2002 compensable ISP-Bound minutes

Notwithstanding anything contrary herein, in Calendar Year 2004, CLEC and ILEC agree that ISP-Bound Traffic exchanged between CLEC and ILEC during the entire period from January 1, 2004 until December 31, 2004 shall be counted towards determining whether LEC has exceeded the growth caps for Calendar Year 2004.

- 2.3.2 ISP-bound Traffic minutes that exceed the applied growth cap will be Bill and Keep. "Bill and Keep" refers to an arrangement in which neither of two interconnecting Parties charges the other for terminating traffic that originates on the other network.

2.4 Bill and Keep for ISP-bound Traffic in New Markets

- 2.4.1 In the event CARRIER and ILEC have not previously exchanged ISP-bound Traffic in any one or more Wisconsin LATAs prior to April 18, 2001, Bill and Keep will be the reciprocal compensation arrangement for all ISP-bound Traffic between CARRIER and ILEC for the remaining term of this Agreement in any such Wisconsin LATAs.
- 2.4.2 In the event CARRIER and ILEC have previously exchanged traffic in an Wisconsin LATA prior to April 18, 2001, the Parties agree that they shall only compensate each other for completing ISP-bound Traffic exchanged in that Wisconsin LATA, and that any ISP-bound Traffic in other Wisconsin LATAs shall be Bill and Keep for the remaining term of this Agreement.
- 2.4.3 Wherever Bill and Keep is the traffic termination arrangement between CARRIER and ILEC, both Parties shall segregate the Bill and Keep traffic from other compensable local traffic either (a) by excluding the Bill and Keep minutes of use from other compensable minutes of use in the monthly billing invoices, or (b) by any other means mutually agreed upon by the Parties.

- 2.5 The Growth Cap and New Market Bill and Keep arrangement applies only to ISP-bound Traffic, and does not include Optional Calling Area traffic, IntraLATA Interexchange traffic, or InterLATA Interexchange traffic.

2.6 ISP-bound Traffic Rebuttable Presumption

In accordance with Paragraph 79 of the FCC's ISP Compensation Order, LEC and ILEC agree that there is a rebuttable presumption that any of the combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between LEC and ILEC exceeding a 3:1 terminating to originating ratio is presumed to be ISP-Bound Traffic subject to the compensation and growth cap terms in this Section 2.0. Either party has the right to rebut the 3:1 ISP presumption by identifying the actual ISP-Bound Traffic by any means mutually agreed by the Parties, or by any method approved by the Commission. If a Party seeking to rebut the presumption takes appropriate action at the Commission pursuant to section 252 of the Act and the Commission agrees that such Party has rebutted the presumption, the methodology and/or means approved by the Commission for use in determining the ratio

shall be utilized by the Parties as of the date of the Commission approval and, in addition, shall be utilized to determine the appropriate true-up as described below. During the pendency of any such proceedings to rebut the presumption, LEC and ILEC will remain obligated to pay the presumptive rates (the rates set forth in Section 2.2.2 for Section 251(b)(5) Traffic and traffic above the ratio, subject to growth caps) subject to a true-up upon the conclusion of such proceedings. Such true-up shall be retroactive back to the date a Party first sought appropriate relief from the Commission.

3.0 Reservation of Rights

- 3.1 The Parties reserve the right to raise the appropriate treatment of Voice Over Internet Protocol ("VoIP") and traffic utilizing in whole or part Internet Protocol technology under the Dispute Resolution provisions of this Agreement, including but not limited, to any rights they may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (Rel. April 21, 2004). The Parties acknowledge that there is an on-going disagreement between LECs and ILEC over whether or not, under the law, VoIP traffic or traffic utilizing in whole or part IP technology is subject to reciprocal compensation or switched access charges. The Parties therefore agree that neither one will argue or take the position before any regulatory commission or court that this Amendment constitutes an agreement as to whether or not reciprocal compensation or switched access charges apply to that traffic or a waiver by either party of their position or their rights as to that issue. The Parties further agree that they each have reserved the right to advocate their respective positions relating to the treatment and compensation for VoIP traffic and traffic utilizing in whole or part Internet Protocol technology before any state commission or the Federal Communications Commission ("FCC") whether in bilateral complaint dockets, arbitrations under Section 252 of the Act, state commission or FCC established rulemaking dockets, or before any judicial or legislative body.

4.0 Miscellaneous

- 4.1 This Amendment will be effective on June 1, 2003 ("Effective Date") contingent upon any necessary commission approval; provided however, the rates, terms and conditions relating to all ISP-Bound Traffic shall apply effective June 1, 2003 and the rates, terms and conditions relating to all Section 251(b)(5) shall apply effective ten days after approval of the Amendment
- 4.2 To the extent that compensation for intercarrier traffic on or after June 1, 2003 was already billed and/or paid prior to the time that the state commission approved this Amendment, the Parties agree to implement any adjustments, reimbursements, or other "true ups" necessary to make the rates and terms set forth in this Amendment effective for all traffic terminated on and after June 1, 2003.
- 4.3 This Amendment is coterminous with the underlying Interconnection Agreement and does not extend the term or change the termination provisions of the underlying Interconnection Agreement.
- 4.4 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING INTERCONNECTION AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- 4.5 Every rate, term and condition of this Amendment is legitimately related to the other rates, terms and conditions in this Amendment. Without limiting the general applicability of the foregoing, the change of law provisions of the underlying Interconnection Agreement, including but not limited to the "Intervening Law" or "Change of Law" or "Regulatory Change" section of the General Terms and Conditions of the Interconnection Agreement and as modified in this Amendment, are specifically agreed by the Parties to be legitimately related to, and inextricably intertwined with this the other rates, terms and conditions of this Amendment.
- 4.6 In entering into this Amendment and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s), including, without limitation, its intervening law rights (including intervening law rights asserted by either Party via written notice predating this Amendment) relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC*, et.


al, 535 U.S. 467 (2002); *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98, and 98-147 (FCC 03-36) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004), and the FCC's Biennial Review Proceeding; the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Inter-carrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"). Notwithstanding anything to the contrary in this Agreement (including this and any other amendments to the Agreement), SBC-Wisconsin shall have no obligation to provide UNEs, combinations of UNEs, combinations of UNE(s) and CLEC's own elements or UNEs in commingled arrangements beyond those required by the Act, including the lawful and effective FCC rules and associated FCC and judicial orders. Further, neither Party will argue or take the position before any state or federal regulatory commission or court that any provisions set forth in this Agreement and this Amendment constitute an agreement or waiver relating to the appropriate routing, treatment and compensation for Voice Over Internet Protocol traffic and/or traffic utilizing in whole or part Internet Protocol technology; rather, each Party expressly reserves any rights, remedies, and arguments they may have as to such issues including but not limited to, any rights each may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (rel. April 21, 2004). The Parties acknowledge and agree that SBC Wisconsin has exercised its option to adopt the FCC ISP terminating compensation plan ("FCC Plan") in Wisconsin and as of the date of that election by SBC Wisconsin, the FCC Plan shall apply to this Agreement, as more specifically provided for in this Amendment. If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and this Amendment and/or otherwise affects the rights or obligations of either Party that are addressed by the Agreement and this Amendment, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party ("Written Notice"). With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

IN WITNESS WHEREOF, this Reciprocal Compensation Amendment for ISP-Bound Traffic and Federal Telecommunications Act Section 251(b)(5) Traffic (Adopting FCC Interim Terminating Compensation Plan) to the Interconnection Agreement was exchanged in triplicate on this 1st day of December, 2004, by SBC Wisconsin, signing by and through its duly authorized representative, and CARRIER, signing by and through its duly authorized representative.

Powercom Corporation

Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC
Telecommunications, Inc., its authorized agent

Signature: 

Signature: 

Name: DAN LARSEN
(Print or Type)

Name: Kathy J. Wilkinson
(Print or Type)

Title: Chief of Operations
(Print or Type)

Title: For/ Senior Vice President -
Industry Markets & Diversified Businesses

Date: 11/23/04

Date: 12-1-2004

FACILITIES-BASED OCN # 8022

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